

UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF NEW YORK

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DEVIN JOHNSON,

Plaintiff,

**DECLARATION**

-v-

**Civil No. 21-CV-6683(DGL/MWP)**

The CITY OF ROCHESTER and ROCHESTER  
POLICE OFFICER JONATHAN LAUREANO,

Defendants.

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STATE OF NEW YORK)  
COUNTY OF MONROE) ss.:

**PHILIP PERELLI**, being first duly sworn, deposes and says as follows:

1. I have been employed as a Police Officer by the City of Rochester Police Department since 2009 and I submit this Declaration in support of the motion for summary judgment made on behalf of my fellow Police Officer, Jonathan Laureano, and the City of Rochester, also named as a Defendant in this action for.

2. I was on duty on the evening of Saturday, August 24, 2019 and was assigned to the Tactical Unit. I was in full uniform and was riding in a marked Rochester Police Department (RPD) SUV with three other Tactical Unit Officers: Jose Rodriguez, who was driving; Thomas Lisle; and William Wagner. We were on general patrol in the northeast area of the City.

3. At approximately 9:00 that evening, we were driving on Lincoln Street and observed a black Audi Q7 SUV stopping in front of 5 Lincoln Street, which is a known gang and drug house and was one of the locations we were monitoring. We observed a black male get out of the vehicle and immediately disassociate himself with it when he saw us, leaving the engine

running and the car stereo blaring. He seemed exquisitely uncomfortable upon observing the marked SUV and kept us under observation as we drove away.

4. We later learned that the black male who was driving and got out of the Audi was the Plaintiff in this action, Devin Johnson. We determined to make a loop down Bay Street and Goodman to attempt to locate the Audi again.

5. There is a Blue Light Camera (BLC) mounted on the light post on the northeast corner of the intersection of Clifford and Portland Avenues and the footage from the evening at issue shows our SUV as it arrived at the intersection, westbound, on Clifford and made a right turn onto Portland, northbound, at 9:31 (I understand that this footage is submitted as an Exhibit to the Rule 56 Statement included in the moving papers). As we passed the gas station located on that corner, we observed the Audi and the black male we saw earlier, who was getting gas.

6. As soon as he saw our marked SUV, he again disassociated himself from the Audi and kept us in his view. We parked a short distance to the north on Carter Street and we radioed a request generally to the Clinton Section Officers working that evening to assist us in locating it. We received a radio transmission from Officer Laureano a few minutes later advising that he had passed the gas station and saw the Audi and the black male. We then radioed Sgt. Jeremy Robinson, who was at the Clinton Section Office, to keep the Audi in view on the BLC mounted on a light pole on the northeast corner of Clinton and Portland while we pulled further north out of Mr. Johnson's view. Sgt. Robinson turned the BLC toward the gas station to keep the Audi in view.

7. Mr. Johnson's reactions to seeing our marked SUV on both occasions appeared to us to be highly suspicious. So, when Sgt. Robinson advised us that the Audi was leaving the gas station and turning left/eastbound on Clifford Avenue, Officer Laureano followed it in his

marked car, intending to stop it and identify the driver. The BLC at Clifford and Portland shows the Audi leaving the gas station at 9:44:50 and Officer Laureano's marked car following him eastbound on Clifford at 9:45:20, separated by another car. That camera also shows our SUV crossing the gas station's lot and turning left/eastbound on Clifford Avenue from 9:45:22 to 9:46:04.

8. The BLC footage shows the Audi arriving at the intersection with Miller Street and turning right/southbound onto Miller at 9:45:22 followed by Officer Laureano's car at 9:45:29 and our SUV turning right onto Miller at 9:45:45. Sgt. Robinson also picked up this activity on the BLC located on the north side of Clifford Avenue across from the intersection with Miller Street at the same times.

9. The Clifford/Miller BLC shows the Audi's brake lights flaring just as the front end of Officer Laureano's car enters Miller Street, it shows them activating several more times as the Audi and Officer Laureano's car, which are the only two moving in traffic on Miller Street, proceeded southbound, and it shows the Audi slowing considerably and moving slightly to the right as Officer Laureano's car closes the gap between them. Miller Street is, and was in August 2019, one-way southbound from Clifford Avenue and vehicles often parked along the right, or west, curb. That was true the evening at issue, as well.

10. Our SUV stopped just behind Officer Laureano's car, which was just behind the Audi and we heard Officer Laureano radio that the driver had exited the Audi as soon as it stopped and that he was pursuing the driver on foot. Officer Lisle and I got out of the SUV as soon as it stopped and joined the foot pursuit.

11. The driver ran diagonally across Miller Street toward the east curb, then ran between the houses at 66 and 64 Miller, eastbound. There were various high, wooden fences and

dense vegetation along the backyards of the houses on the next street to the south, Wright Terrace, and I lost sight of Officer Laureano and Mr. Johnson as I attempted to navigate the fences and the vegetation. I was listening to Officer Laureano's radio transmissions regarding the progress of the foot chase, however, and I eventually emerged onto Wright Terrace between houses. I was wearing a body worn camera (BWC) and I activated it as I was joining the foot pursuit (that footage is also an Exhibit to Rule 56 Statement). It shows me emerging onto Wright Terrace and running westbound toward where Officer Laureano had apprehended Mr. Johnson on the sidewalk in front of 13 Wright Terrace. I arrived just after Officer Laureano brought him to the ground and I assisted by handcuffing his wrists with my handcuffs, as my BWC footage shows. Except for a cut on the bottom of Mr. Johnson's right foot, as the result of having run out of his sneakers just after he exited the Audi and was running on rough ground, he was not physically injured and sustained no injuries as the result of Officer Laureano's apprehension.

12. Aside from backtracking on the path of the foot pursuit to look for items Mr. Johnson may have discarded, I had no further involvement in his apprehension and arrest, other than to complete reports, which are attached hereto as Exhibit A.

13. I have learned since the date of the apprehension and arrest that Mr. Johnson was on parole and had an 8:00 p.m. to 8:00 a.m. curfew. He was out after that when we observed him at 5 Lincoln Street at about 9:00 and when we spotted him again at the gas station at Clifford and Portland at just after 9:30. I have also since learned that he apparently received a text message while at the gas station from a neighbor who was residing in another apartment in the building where Mr. Johnson lived, who had requested a ride home and advised that he was somewhere on Miller Street. Additionally, I have learned that Mr. Johnson was placed into the rear seat of Officer Brandon Glodowski's marked car and spoke at length with Officer

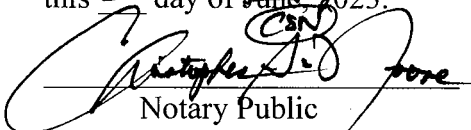
Glodowski about running because he feared revocation of his parole and that he was trying to speak with a supervisor to work out a deal to avoid that from virtually the time that he and Officer Glodowski began speaking. His desire to avoid parole revocation could explain his very suspicious behavior on each occasion when he saw our marked SUV and disassociated himself from the Audi. His agreement to pick up his neighbor also could explain the actions of the Audi, as observed on the Clifford/Miller BLC, which I have seen. His repetitive braking, slowing and his drifting toward the right curb appeared consistent with him looking for his neighbor.

14. Officer Laureano effected a traffic stop for Mr. Johnson's violation of V&TL §1163(d), which, among other things, prohibits changing travel lanes without activating a directional signal. At no time on Miller Street did Mr. Johnson activate a directional signal on the Audi and the traffic offense was complete when he started to drift right and out of the travel lane. Upon observing what is shown on the Clifford/Miller BLC, I would have effected a traffic stop for the same reason as did Officer Laureano.

15. In view of all of the foregoing, I join Officer Laureano and the City in their motion for summary judgment and would urge that this Court grant them that relief.

  
 PHILIP PERELLI

Sworn to before me  
 this ~~5th~~ <sup>July</sup> day of ~~June~~ 2023.

  
 Notary Public

CHRISTOPHER S. NOONE, ESQ.  
 Notary Public, State of New York  
 Monroe County, reg# 4946541  
 My Commission Expires Feb. 6, 2027



# EXHIBIT A



# **ROCHESTER POLICE DEPARTMENT** **INCIDENT REPORT**

CR #  
**2019-00202259**

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DETAIL

Incident Type <b>11. Weapons Offenses</b>	Report Date <b>08/24/2019</b>	Report Time <b>21:46</b>	Date From <b>08/24/2019</b>	Time From <b>21:46</b>	Date To <b>08/24/2019</b>	Time To <b>21:46</b>
Incident Address <b>73 Miller ST</b>			Beat <b>267</b>	Campus Code		
Violent Crime Context			BWC <b>Yes</b>			

OFFENSES

Statute - <b>PL 265.03 03 CF2</b>				Attempt/Commit - <b>Completed</b>		Counts - <b>1</b>	
Description - <b>CPW 2nd: Loaded Firearm: Other Than Home/Business</b>							
Location <b>Street-47</b>				Weapon <b>Revolver or Singleshot Pistol-02</b>			
Larceny Type				Aggravated Assault Circumstances		Gang Related <b>No</b>	Computer <b>No</b>
Bias Type <b>No Bias-Not Applicable-77</b>		Entry Point		Method of Entry		# of Premises Entered	
Statute - <b>PL 265.02 01 DF3</b>				Attempt/Commit - <b>Completed</b>		Counts - <b>1</b>	
Description - <b>CPW 3rd: Previous Conviction</b>							
Location <b>Street-47</b>				Weapon <b>Revolver or Singleshot Pistol-02</b>			
Larceny Type				Aggravated Assault Circumstances		Gang Related <b>No</b>	Computer <b>No</b>
Bias Type <b>No Bias-Not Applicable-77</b>		Entry Point		Method of Entry		# of Premises Entered	

VICTIM

Victim Type <b>Society Public-S</b>	Victim Name (Last, First, Middle) <b>City of Rochester</b>							
Address <b>185 Exchange BLVD</b>			Date of Birth	Age	Sex	Race	Ethnicity	Residence Status <b>Not Applicable</b>
City, State, Zip <b>Rochester, NY 14614</b>			Victim/Offender Relationship (Offender Name, DOB, Relationship)					
Telephone <b>(585)428-1110</b>		Level of Injury <b>Business - NA</b>		Type of Injury <b>Business - NA</b>		Medical Treatment <b>Business - NA</b>		

PERSONS

Type	Name (Last, First, Middle)	DOB	Sex	Race	Eth	Address	Telephone No.

SUSPECT / MISSING PER

Type - <b>S</b>	Suspect Name (Last, First, Middle) <b>JOHNSON, Devin, S</b>				Nickname <b>fly guy</b>				
Address <b>Rochester, NY 14614</b>				Date of Birth	Age	Sex <b>M</b>	Race <b>B</b>	Ethnicity <b>N</b>	MoRIS / JCR # <b>358122</b>
Height <b>6' 0</b>	Weight <b>180</b>	Hair Color <b>Black</b>	Hair Length <b>Dread Locks</b>	Eye Color <b>Hazel</b>	Glasses	Complexion <b>Medium</b>	Build <b>Athletic</b>	Facial Hair <b>Goatee</b>	Gang Affiliation
Clothing, Jewelry, Distinguishing Features <b>white/blue tommy hil. lg sleeve, blue jeans</b>					Offender Condition <b>Apparently Normal</b>		Scars, Marks, Tattoos <b>T-Neck-"fly guy" 1994</b>		
Mothers Maiden Name				Place of Birth			School Name / ID #		

INVESTIGATION

Modus Operandi									
01. Witness to the offense?		05. Can a suspect be described?		09. Is there significant Modus Operandi present?					
02. Surveillance footage of event?		06. Can a suspect be identified?		10. Is there significant physical evidence present?		<b>X</b>			
03. Can a suspect be named?		07. Can a suspect vehicle be identified?		11. Has evidence tech work been performed?		<b>X</b>			
04. Can a suspect be located?		08. Is stolen property traceable?		12. Preliminary investigation NOT completed?					
Case Status <b>Cleared by Arrest - Adult</b>		Exceptional Clearance		Assigned Bureau <b>SOS - Tact</b>		Review Box <b>Tactical</b>			
Reporting Officer <b>PERELLI</b>		IBM # <b>PHILLIP</b>		Date <b>2138</b>		Reviewed By <b>08/25/2019</b>		<b>BERG, KARL F. 08/29/2019</b>	



# **ROCHESTER POLICE DEPARTMENT** **INCIDENT REPORT**

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**ADD'L OFFENSE**

Statute - <b>PL 195.05 AM2</b>		Attempt/Commit - <b>Completed</b>		Counts - <b>1</b>	
Description - <b>Obstruct Governmental Administration 2nd</b>					
Location <b>Street-47</b>				Weapon	
Larceny Type		Aggravated Assault Circumstances		Gang Related <b>No</b>	Computer <b>No</b>
Bias Type <b>No Bias-Not Applicable-77</b>	Entry Point		Method of Entry		# of Premises Entered

**VICTIM #2**

Victim Type		Victim Name (Last, First, Middle)					
Address		Date of Birth	Age	Sex	Race	Ethnicity	Residence Status
City, State, Zip		Victim/Offender Relationship (Offender Name, DOB, Relationship)					
Telephone		Level of Injury		Type of Injury		Medical Treatment	

**PERSONS**

R = Reporting Person		W = Witness		PK = Person w/Knowledge		NI = Not Interviewed	
Type	Name (Last, First, Middle)	DOB	Sex	Race	Eth	Address	Telephone No.

**SUSPECT #2**

Type -		Suspect Name (Last, First, Middle)				Nickname	
Address		Date of Birth	Age	Sex	Race	Ethnicity	MoRIS / JCR #
Height	Weight	Hair Color	Hair Length	Eye Color	Glasses	Complexion	Build
Facial Hair		Gang Affiliation					
Clothing, Jewelry, Distinguishing Features				Offender Condition		Scars, Marks, Tattoos	

**PROPERTY**

Property Code <b>Seized Evidence</b>	Property Type <b>BWC Video</b>	Property Value	Serial Number
Item Type and Description <b>Video Recorded by IBM: 2138</b>			Color
Quantity <b>1</b>	Unit of Measure <b>Item(s)</b>	Measurement Source	Drug Type

**PROPERTY**

Property Code	Property Type	Property Value	Serial Number
Item Type and Description			Color
Quantity	Unit of Measure	Measurement Source	Drug Type

**FIREARM**

Firearm Property Code <b>Stolen</b>	Firearm Value <b>\$200</b>	Make <b>Smith &amp; Wesson</b>	Model	Finish
Caliber <b>38</b>	Capacity <b>5</b>	Type <b>Pistol</b>	Action <b>Revolver</b>	Serial Number <b>brh4033</b>
Description <b>loaded with 5 rounds of Winchester .38 caliber</b>				Recovery Date

**VEHICLE**

Vehicle Status <b>Involved Vehicle</b>	Year <b>2008</b>	Make <b>Audi</b>	Model	Style <b>SUV</b>	Color <b>Black</b>
State <b>NY</b>	Plate Number <b>GPB2190</b>	VIN #		Recovery Date	
Additional Description <b>Audi Q7</b>					

Reporting Officer <b>PERELLI</b>	PHILLIP	IBM # <b>2138</b>	Date <b>08/25/2019</b>	Reviewed By <b>BERG, KARL F. 08/29/2019</b>
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**ROCHESTER POLICE DEPARTMENT  
INCIDENT REPORT**
**CR #  
2019-00202259**

On the above date myself and other tactical officers were on routine patrol when we first noticed the above vehicle, GPB2190 to a black Audi Q7, at five Lincoln St, which is a known gang location. As officers were pulling up to the location (a), Devin Johnson, exited the driverside of the vehicle and walked up to the house. No one else was observed inside the vehicle at the time. A short time later the same vehicle was observed stopped at the gas pumps located at 540 Portland Ave. When officers turned around on the vehicle, Johnson again exited the driverside of the vehicle and walked into the store. No one else was observed exiting or getting into the vehicle. At this point officers began surveillance on the vehicle.

While conducting surveillance Johnson was witnessed exiting the store but walked to the sidewalk instead of the vehicle. Through Johnson's actions it was believed that he as attempting to avoid officers and separate himself from the vehicle. The city camera was utilized to watch Johnson so officers could get out of the area and out of his line of sight. No more than a minute after officers moved did Sgt Robinson radio that Johnson was back to his vehicle and traveling e/b on Clifford Ave.

Officer Laureano was able to get behind Johnson as he was s/b on Miller St and witnessed a V&T violation (see IAR). Johnson immediately got out of his vehicle and began to flee s/b on Miller St. After a foot chase Johnson was taken into custody at 13 Wright ter.

Johnson was found to be on parole for cpw 2nd and had a suspended non-driver ID only.

During the course of an inventory search of the vehicle officer Lisle located a smith & wesson airweight revolver (see IA).

Technician Muller responded to and processed the scene. The revolver was loaded with 5 winchester .38 caliber rounds and was found to be stolen out of Sweden, NY. The serial number was also defaced on the bottom handle.

I did locate a cell phone under a vehicle at 64 Miller, which is the path that Johnson fled. I photographed the cell phone and ended up turning it over to Invs Brennan.

Johnson was transported to the PSB 4th floor were he was interviewed by Investigators Brennan and Galetta.

Johnson was eventually transported to booking without incident.

NARRATIVE

Reporting Officer

PERELLI

PHILLIP

IBM #

2138

Date

08/25/2019

Reviewed By

BERG, KARL F. 08/29/2019



# **ROCHESTER POLICE DEPARTMENT** **INCIDENT REPORT**

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Statute - <b>PL 205.30 AM0</b>		Attempt/Commit - <b>Completed</b>		Counts - <b>1</b>	
Description - <b>Resisting Arrest</b>					
Location			Weapon		
<b>Street-47</b>					
Larceny Type		Aggravated Assault Circumstances		Gang Related	Computer
				<b>No</b>	<b>No</b>
Bias Type	Entry Point	Method of Entry		# of Premises Entered	
<b>No Bias-Not Applicable-77</b>					
Statute - <b>PL 265.02 03 DF3</b>		Attempt/Commit - <b>Completed</b>		Counts - <b>1</b>	
Description - <b>CPW 3rd: Defaced For Concealment</b>					
Location			Weapon		
<b>Street-47</b>			<b>Revolver or Singleshot Pistol-02</b>		
Larceny Type		Aggravated Assault Circumstances		Gang Related	Computer
				<b>No</b>	<b>No</b>
Bias Type	Entry Point	Method of Entry		# of Premises Entered	
<b>No Bias-Not Applicable-77</b>					
Statute -		Attempt/Commit -		Counts -	
Description -					
Location			Weapon		
Larceny Type		Aggravated Assault Circumstances		Gang Related	Computer
Bias Type	Entry Point	Method of Entry		# of Premises Entered	
Statute -		Attempt/Commit -		Counts -	
Description -					
Location			Weapon		
Larceny Type		Aggravated Assault Circumstances		Gang Related	Computer
Bias Type	Entry Point	Method of Entry		# of Premises Entered	
Statute -		Attempt/Commit -		Counts -	
Description -					
Location			Weapon		
Larceny Type		Aggravated Assault Circumstances		Gang Related	Computer
Bias Type	Entry Point	Method of Entry		# of Premises Entered	
Statute -		Attempt/Commit -		Counts -	
Description -					
Location			Weapon		
Larceny Type		Aggravated Assault Circumstances		Gang Related	Computer
Bias Type	Entry Point	Method of Entry		# of Premises Entered	

ADDITIONAL OFFENSES

Reporting Officer	IBM #	Date	Reviewed By
<b>PERELLI</b>	<b>PHILLIP</b>	<b>2138</b>	<b>08/25/2019</b>
			<b>BERG, KARL F. 08/29/2019</b>



# ROCHESTER POLICE DEPARTMENT PRISONER DATA REPORT

MoRIS #  
**358122**

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ARRESTEE INFORMATION

Prisoner Name (Last, First, Middle Suffix) <b>Johnson, Devin, S</b>										Original CR# <b>2019-00202259</b>	
Alias and/or Maiden Name (Last, First, Middle, Suffix)					Nickname			Social Security # [REDACTED]		Arrest CR# <b>2019-</b>	
Address <b>Rochester, 146</b>										Phone # Home [REDACTED]	
Date of Birth	Age	Sex	Race	Height	Weight	Hair Color	Hair Length	Eye Color	Complexion	Build	
[REDACTED]	<b>25</b>	<b>M</b>	<b>B</b>	<b>6' 0</b>	<b>180</b>	<b>Black</b>	<b>Dread Locks</b>	<b>Hazel</b>	<b>Dark</b>	<b>Thin</b>	
Facial Hair <b>Goatee</b>			Ethnicity <b>Non Hispanic</b>		Residence Status <b>Resident</b>			Citizen	Place of Birth (City, State or Country) <b>Rochester</b>		Court Supervision <b>Parole</b>
Glasses <b>No</b>		Gang Affiliation		Religion <b>Other</b>		Education Level <b>GED</b>		Scars, Marks or Tattoos <b>T-Neck-"Fly guy"</b>			
Dominant Hand <b>Left</b>		Military Service? <b>None</b>		Marital Status		# of Children <b>1</b>					

ARREST INFORMATION

Address of Crime <b>73 MILLER ST</b>			Date of Crime <b>08/25/2019</b>		Address of Arrest <b>13 WRIGHT TER</b>			Date of Arrest <b>08/25/2019</b>		Time of Arrest <b>21:49</b>		Beat <b>267</b>
Arrest Type <b>Crime in Prog (Yes BWC)</b>		App Ticket #		Arresting Officer #1 <b>PERELLI</b>			IBM # <b>2138</b>	Arresting Officer #2 <b>LAUREANO</b>			IBM # <b>2231</b>	
Statute - <b>PL 265.03 03 CF2</b> Attempt/Commit - <b>Completed</b> Counts - <b>1</b> Larceny Type -												
Description - <b>CPW 2nd: Loaded Firearm: Other Than Home/Business</b>												
Statute - <b>PL 265.02 01 DF3</b> Attempt/Commit - <b>Completed</b> Counts - <b>1</b> Larceny Type -												
Description - <b>CPW 3rd: Previous Conviction</b>												
Statute - <b>PL 265.02 03 DF3</b> Attempt/Commit - <b>Completed</b> Counts - <b>1</b> Larceny Type -												
Description - <b>CPW 3rd: Defaced For Concealment</b>												
Statute - <b>PL 165.45 04 EF4</b> Attempt/Commit - <b>Completed</b> Counts - <b>1</b> Larceny Type -												
Description - <b>Criminal Possession of Stolen Property 4th: Firearms</b>												
Statute - <b>VTL1163 0C 10</b> Attempt/Commit - <b>Completed</b> Counts - <b>1</b> Larceny Type -												
Description - <b>Illegal Signal: Stop/Slow Without Signaling</b>												
Statute - <b>PL 195.05 AM2</b> Attempt/Commit - <b>Completed</b> Counts - <b>1</b> Larceny Type -												
Description - <b>Obstruct Governmental Administration 2nd</b>												
Statute - <b>PL 205.30 AM0</b> Attempt/Commit - <b>Completed</b> Counts - <b>1</b> Larceny Type -												
Description - <b>Resisting Arrest</b>												
Arrestee Weapon Information <b>None Not Applicable</b>				Searched Completed By <b>LAUREANO</b>			IBM# <b>2231</b>	Fingerprintable? <b>Yes</b>	Positive ID? <b>Yes</b>	Wanted by Other Jurisdiction?		

REMARKS

(A) was the driver of a vehicle containing a loaded, stolen, defaced .38 caliber revolver

CONTACT INFO

Occupation <b>Steel hanger</b>	Employer <b>Nordon</b>	Address <b>EXCHANGE BLVD Rochester, NY</b>	Phone #
Mother's Name <b>Johnson, Jacqueline,</b>		Address <b>ELMWOOD AVE Rochester, NY</b>	Phone # [REDACTED]
Father's Name <b>GRANT, DEMETRIUS,</b>		Address <b>UNKNOWN Rochester, NY</b>	Phone # [REDACTED]
Spouse/Girlfriend/Boyfriend Name <b>Single,</b>		Address <b>Rochester, NY</b>	Phone #

JAIL INFO

Searched by Jail	Amount of Money	Released to Custody of	Date	Time
Released on Bail	Bail Amount	Released By		
Booking Deputy's Remarks / Signature & ID# (Include Medical Notes, Injuries, Etc.)				

VICTIM OFFENDER RELATIONSHIP  
Relationship Unknown-40



MoRIS #  
**358122**

### **ADDITIONAL CHARGES**